

R68. Agriculture and Food, Plant Industry.

R68-7. Utah Pesticide Control Act.

R68-7-1. Authority.

Promulgated under authority of Section 4-14-6.

R68-7-2. Registration of Products.

All pesticide products distributed in Utah shall be officially registered annually with the Utah Department of Agriculture and Food.

(1) Application for registration shall be made to the department on forms prescribed and provided by them and shall include the following information:

(a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant.

(b) The name of the pesticide.

(c) A complete copy of the label which will appear on the pesticide.

(2) The department may require submission of the complete formula of any pesticide if it is deemed necessary for administration of the Utah Pesticide Control Act. If it appears to the department that the composition of the product is such as to warrant the proposed claims for it, and if the product and its labeling and any other information which may be required to be submitted comply with the requirements of the act, the product shall be registered.

(3) The registrant is responsible for the accuracy and completeness of all information submitted concerning application for registration of a pesticide.

(4) Once a pesticide is registered under the Act, no further registration is required: Provided that,

(a) the product remains in the manufacturer's or registrant's original container; and

(b) the claims made for it, the directions for its use, and other labeling information do not differ in substance from the representations made in connection with the registration.

(5) Whenever the name of a pesticide product is changed or there are changes in the product ingredients, a new registration shall be required. Other labeling changes shall not require re-registration, but the registrant shall submit copies of all changes to the department as soon as they are effective.

(6) Whenever a registered pesticide product is to be discontinued for any reason, except when suspended or canceled by the U.S. Environmental Protection Agency (EPA), the Utah Department of Agriculture and Food requires said product to be registered for two years from date of the notice of discontinuation. When a product is found in commercial trade after the discontinuation period, the department will require that the registrant register said product as outlined in Chapter 14, Utah Pesticide Control Act, 4-14-3(1).

(7) The department may exempt any pesticide that is determined either (1) to be adequately regulated by another federal agency, or (2) be of a character which is unnecessary to subject to Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

(8) A registrant who desires to register a pesticide to meet special local needs pursuant to Section 24(c) of FIFRA shall comply with Section 4-14-3 of the Utah Pesticide Control Act.

(9) No registration is required for a pesticide distributed in Utah pursuant to an experimental use permit issued by the EPA or under Section 4-14-5 of the Utah Pesticide Control Act.

(10) A registration fee determined by the department, pursuant to Subsection 4-2-2(2), shall be paid annually for each product, regardless of the number of products registered per applicant.

(11) Each registration is renewed for a period of one year upon payment of the annual renewal fee determined by the department, pursuant to Subsection 4-2-2(2). It shall be paid on or before June 30 of each year. If the renewal of a pesticide registration is not received prior to July 1 of that year, an additional fee determined by the department pursuant to Subsection 4-2-2(2), shall be assessed and added to the original registration fee and shall be paid by the applicant before the registration renewal for that pesticide shall be issued.

R68-7-3. Product Labeling.

(A) Each container of pesticide distributed in Utah shall bear a label showing the information set forth in Section 4-14-4.

(B) All pesticide labels shall contain statements, words, graphic material, and any other information required by the EPA.

R68-7-4. Classification of Pesticides.

The commissioner shall classify all pesticide products registered in Utah for "restricted use" or "general use" according to standards consistent with Section 3 of FIFRA. The commissioner shall consider all pesticides and uses classified as restricted by the EPA to be restricted in the State of Utah. He may also restrict the use of additional pesticides if he finds that the characteristics of such pesticides require that their uses be restricted to prevent damage to property other than the property to which they are directly applied or to persons, animals, crops or vegetation other than the pests which they are intended to destroy. Individuals not appropriately certified are prohibited from using restricted-use pesticides, with the exception of those competent individuals working under the direct supervision of a certified private applicator.

R68-7-5. Classification of Pesticide Applicators.

Pesticide applicators shall be classified as commercial, non-commercial, or private applicators according to the following criteria:

(1) Commercial Applicator - any person who uses any pesticide for hire or compensation.

(2) Non-commercial Applicator - any person working as an individual or an employee of a firm, entity or government agency who uses or demonstrates the use of any restricted-use pesticide and who does not qualify as a private applicator, nor require a commercial applicator's license.

(3) Private Applicator - any person or his employer who uses or supervises the use of any restricted-use pesticide for the purpose of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of services between producers of agricultural commodities) on the property of another person.

R68-7-6. Categorization of Pesticide Applicators.

Applicators shall be categorized in one or more of the categories defined below, based on the application site and the type of work they perform.

(1) Agricultural Pest Control.

(a) Plant. This category includes applicators using pesticides to control pests in the production of agricultural crops including, but not limited to, field crops, vegetables, fruits, pasture, rangelands, and non-crop agricultural lands.

(b) Animal. This category includes applicators using pesticides on animals including, but not limited to, beef and dairy cattle, swine, sheep, horses, goats, poultry, and to places on or in which animals inhabit. Doctors of veterinary medicine or their employees engaged in the business of applying pesticides for hire, publicly representing themselves as pesticide applicators or engaged in large-scale use of pesticides, are included in this category.

(2) Forest Pest Control. This category includes applicators using pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) Ornamental and Turf Pest Control. This category includes applicators using pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers and turf. This includes controlling pests on home foundations, sidewalks, driveways, and other similar locations.

(4) Seed Treatment. This category includes applicators using pesticides on seeds.

(5) Aquatic Pest Control.

(a) Surface Water: This category includes applicators applying pesticides to standing or running water, excluding applicators engaged in public health-related activities included in R68-7-6(8).

(b) Sewer Root Control: This category includes applicators using pesticides to control roots in sewers or in related systems.

(6) Right-of-Way Pest Control. This category includes applicators using pesticides in the maintenance of public roads,

electric power lines, pipelines, railway rights-of-way, or other similar areas.

(7) Structural and Health-related Pest Control. This category excludes any fumigation pesticide application and is limited to applicators using pesticides in, on, or around food handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses, storage units and any other structures and adjacent areas, public or private; to control household pests, fabric pests, and stored-product pests and to protect stored, processed and manufactured products. This category includes vertebrate pest control in and around buildings.

(8) Public Health Pest Control. This category includes applicators applying the use of pesticides in public-health programs for the management and control of pests having medical and public-health importance.

(9) Regulatory Pest Control.

(a) This category is limited to state and federal, employees or persons under their direct supervision, who apply pesticides in a mechanical ejection device, or other methods to control regulated pests.

(b) This category is limited to state and federal, employees or persons under their direct supervision, who apply pesticides in a protective collar, or other methods to control regulated pests.

(10) Demonstration, Consultation and Research Pest Control. This category includes individuals who demonstrate or provide instruction to the public in the proper use, techniques, benefits and methods of applying restricted-use pesticides. This category includes, but is not limited to agricultural compliance specialists, extension personnel, commercial representatives, consultants and advisors, and persons conducting field research with restricted-use pesticides. In addition, they shall meet the specific standards that may be applicable to their particular activity.

(11) Aerial Application Pest Control. This category includes applicators applying pesticides by aircraft. Aerial applicators are required to be certified in the Aerial-Application Pest-Control Category and any other categories of intended application.

(12) Vertebrate Animal Pest Control. This category includes applicators applying pesticides in the control of vertebrate pests outdoors, such as rodents, birds, bats, predators or domestic animals.

(13) Fumigation/Stored-Commodities Pest Control. This category includes applicators using fumigants to control pests in soils, structures, railroad cars, stored grains, manufactured products, grain elevators, flour mills, and similar areas and items.

(14) Wood-Preservation Pest Control. This category includes applicators who apply wood-preservative pesticides to wood

products, such as fence posts, electrical poles, railroad ties, or any other form of wood products.

(15) Wood-Destroying Organisms Pest Control. This category includes applicators using pesticides to control termites, carpenter ants, wood-boring or tunneling insects, bees, wasps, wood-decaying fungi and any other pests destroying wood products.

R68-7-7. Standards of Competence for Certification of Applicators.

Applicators must show competence in the use and handling of pesticides according to the hazards involved in their particular classification by passing the tests and becoming certified as outlined in R68-7-8. Upon their becoming certified, the department will issue a license which will qualify an applicator to purchase and apply pesticides in the appropriate classification. Standards for certification of applicators as classified in R68-7-4 have been established by the EPA and such standards shall be a minimum for certification of applicators in the State of Utah.

(1) Commercial and Non-Commercial Applicators.

Commercial and non-commercial applicators shall demonstrate practical knowledge by written examination(s) of the principles and practices of pest control and safe use, storage and transportation of pesticides, to include the general standards applicable to all categories and the standards specifically identified for each category or subcategory designated by the applicant, as set forth in 40 CFR, Section 171.4 and the EPA approved Utah State Plan for certification of pesticide applicators. In addition, applicators applying pesticides by aircraft shall be examined on the additional standards specifically identified for this method of application as set forth herein.

(a) Exemptions. The standards for commercial and non-commercial applicators do not apply to the following persons for purposes of these rules:

(i) Persons conducting laboratory-type research involving pesticides; and

(ii) Doctors of medicine and doctors of veterinary medicine applying pesticides or drugs or medication during the course of their normal practice and who do not publicly represent themselves as pesticide applicators.

(2) Aerial Application. Additional Standards.

Applicators shall demonstrate by examination practical knowledge of pest control in a wide variety of environments. These may include, but are not limited to, agricultural properties, rangelands, forestlands, and marshlands. Applicators must have the knowledge of the significance of drift and of the potential for non-target injury and the environmental contamination. Applicators shall demonstrate competency as required by the general standards for all categories of certified commercial and non-commercial applicators. They shall comply with all standards

set forth by the Federal Aviation Administration (FAA) and submit proof of current registration by that agency as a requirement for licensing as an aerial applicator.

(3) Private Applicators. Private applicators shall show practical knowledge of the principles and practices of pest control and the safe use of pesticides, to include the standards for certification of private applicators as set forth in 40 CFR Section 171.5. In addition, private applicators applying restricted-use pesticides by aircraft shall show practical knowledge of the additional standards specifically identified for that method of application in R68-7-6(11) of these rules.

(4) Supervision of Non-Certified Applicators by Certified Private Applicators.

(a) A certified private applicator that functions in a supervisory role shall be responsible for the actions of any non-certified applicators under his instruction and control.

(b) A certified private applicator shall provide written or oral instruction for the application of a restricted-use pesticide applied by a non-certified applicator under his supervision when the certified applicator is not required to be physically present. If an applicator cannot read, instructions shall be given in a language understood by the applicator. The instructions shall include procedures for contacting the certified applicator in the event he is needed.

(5) The certified applicator shall be physically present to supervise the application of a restricted-use pesticide by a non-certified applicator if such presence is required by the label of the pesticide being applied.

R68-7-8. Certification Procedures.

(A) Commercial Applicators.

(1) License Required. No person shall apply any pesticide for hire or compensation to the lands of another at any time without becoming certified and obtaining a commercial applicator's license and a pesticide applicator business license as described in 4-14-13 issued by the department, or working for a company which has already attained such business license.

(2) The pesticide applicator business fee will be determined by the number of commercial pesticide applicators employed by the business. The fee ranges are 1-4 commercial pesticide applicators, 5-9 commercial pesticide applicators and 10 or more commercial pesticide applicators.

Application for such licenses shall be made in writing on an approved form obtained from the department and shall include such information as prescribed by the department. Each individual performing the physical act of applying pesticides for hire or compensation must be licensed. An applicator and business license fee determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification.

(3) Written Examination. An applicant for a commercial pesticide license shall demonstrate competency and knowledge of pesticide applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. All applicants for a commercial applicator license must pass the general examination and the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 or above is required to pass any written examination. A score of less than 70 on the general standards or category examinations shall result in denial of certification of that test. A person must pass the general and at least one category examination before becoming certified. An applicant scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

(4) License Issuance. If the department finds the applicant qualified to apply pesticides in the classifications applied for and for which the prescribed fee(s) have been paid, the department shall issue a commercial applicator's license. The license shall expire December 31 of each year unless it has been revoked or suspended prior by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a commercial license is denied the applicant shall be informed of the reason. The applicator is required to have their license in their immediate possession at all times when making a pesticide application. If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. A pesticide applicator business license shall be required for each pesticide business location with applicators working in the state.

(5) Any new applicator or applicator business license licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification.

(a) A license will be renewed without examination if the renewal notice is received by the Utah Department of Agriculture and Food of prior to January 1 of any year.

(b) If the renewal notice is received after January 1 but before (March 1), individuals will be required to pay the late fee, and no re-examination will be required.

(c) If the renewal notice is received after March 1, individuals will be required to recertify according to the original pesticide-applicator certification procedures. Each license shall expire on December 31 of the year of its issuance. Commercial applicators may voluntarily pay a triennial license fee in lieu of the annual license fee. Commercial applicators must recertify every three years, and be subject to re-examination at any time. Information that may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfy certification requirements as described herein, or meet any other requirements specified by the commissioner shall be added to this rule as often as necessary.

(d) Recertification options:

(i) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(ii) Attend approved recertification courses and pass the required category examinations with a score of 70% or above or;

(iii) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(7) Records Maintained. Commercial applicators shall keep and maintain records of each pesticide application. These records must be recorded within 24 hours after the pesticide application is made. These application records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of pesticide applied per unit area and total amount of pesticide used;

(e) Purpose of application;

(f) The name, address and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the commercial applicator.

(8) Exemption.

The provisions of this section relating to licenses and requirements for their issuance do not apply to a person applying pesticides for his neighbors provided he operates and maintains pesticide application equipment for his own use, is not engaged in the business of applying pesticides for hire or compensation, does not publicly represent himself as a pesticide applicator, and operates his pesticide application equipment only in the vicinity of his owned or rented property for the accommodation of his

neighbors; provided, however, that when such persons use a restricted-use pesticide, they shall comply with the certification requirements specified herein.

(B) Non-Commercial Applicators.

(1) License Required. No non-commercial applicator shall use or demonstrate the use of any restricted-use pesticide without becoming certified and obtaining a non-commercial applicator's license issued by the department. Application for such license shall be made in writing on an approved form obtained from the department and shall include such information as is prescribed by the department. Each individual performing the physical act of applying restricted-use pesticides must be licensed.

(2) Written Examination. An applicant for a non-commercial pesticide license shall demonstrate to the department competency and knowledge of pesticides and their applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time an individual takes the general and category tests. All applicants for a non-commercial applicator license must successfully pass a general examination based upon standards applicable to all categories. After passing the general examination, applicants must pass the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 percent or above is required for passing any written examination. A score of less than 70 percent on the general or category examinations shall result in denial of certification in that category. A person must pass the general and at least one category examination before becoming certified. An applicator scoring less than 65 percent on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way.

(3) License Issuance. If the department finds the applicant qualified to apply pesticides in the classification(s) applied for, the department shall issue a non-commercial applicator's license limited to such activities and classifications applied for. A prescribed examination and educational material fees shall be required. The applicator is required to have his/her license in his/her immediate possession at all times when making a pesticide application.

If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee as determined by the department pursuant to Subsection 4-2-2(2), must be paid before a

replacement license will be issued. The license shall expire December 31, three calendar years after the issuance of the certification, unless it has been suspended or revoked by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a non-commercial license is denied the applicant shall be informed of the reason.

(4) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(5) License Renewal, Recertification. Non-commercial applicators must recertify every three years, and be subject to re-examination at any time. Information that may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfying certification requirements as described herein, or any other requirements specified by the commissioner shall be added to this rule as often as necessary.

Recertification options are:

(a) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(b) Attend approved recertification courses and pass the required category test(s) with a score of 70% or above or;

(c) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(6) Records Maintained. Non-commercial applicators shall keep and maintain records of each application of any restricted-use pesticides. These application records must be recorded within 24 hours after the pesticide application is made. These records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of pesticide applied per unit area, and total amount of pesticide used;

(e) Purpose of application;

(f) The name, address, and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the non-commercial applicator.

(7) Exemption. The provisions of this section shall not apply to persons conducting laboratory research involving restricted-use pesticides as drugs or medication during the course of their normal practice.

(C) Private Applicators.

(1) License Required. No private applicator shall purchase, use or supervise the use of any restricted-use pesticide without a private applicator's license issued by the department. Issuance of such license shall be conditioned upon the applicator's complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons. Application for a license shall be made in writing on a designated form obtained from the department.

(2) Certification Methods. Any person applying to become licensed must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions, from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. All first-time Private Applicators must successfully pass a written test. A score of 70 percent or above is required for passing any written test. A score of less than 70 percent will result in the denial of certification. A person must pass the general and at least one category examination before becoming certified. An applicator scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

(3) Emergency-Use Permit. A single restricted-use pesticide may be purchased and used by a non-certified person on a one-time-only basis if an emergency control situation is shown to exist. Before purchasing the product, the applicant shall participate in a discussion concerning safe use of the specific product with a representative of the Utah Department of Agriculture and Food. Following an adequate discussion of same, the Department of Agriculture and Food may issue the applicant a permit to purchase and use the product on a specific site on a one-time-only basis. The applicant shall be required to become certified before being authorized to further purchase and use restricted-use pesticides.

(4) License Issuance. If the department finds the applicant qualified to apply pesticides, the applicant shall be issued a private applicator's license. Examination and educational-material fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. The license issued by the commissioner shall expire on December 31, three calendar years after issuance, unless the license has been revoked or suspended by the commissioner. If an application for a private license is denied, the applicant shall be informed of the reason. If the applicator requests replacement from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued.

(5) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification. A person applying to recertify must demonstrate the ability to : (a) read and understand three or more sets of pesticide label directions, from pesticide containers randomly chosen by division personnel, and (b) demonstrate the mixing and application of pesticides in a safe way. All certified private applicators must recertify every three years, or more frequently if determined necessary by the department, by satisfying any of the following procedures or any other requirements specified by the department.

(a) Training Course. Completion of a training course approved by the Utah Department of Agriculture and Food which may require passing a written test with a score of 70% or above or;

(b) Self-Study Program. Successful completion of an approved written test. A passing score of 70 percent or above is required or;

(c) Written Examination. Successful completion of an approved written test. A score of 70 percent or above is required to pass or;

(d) Accumulate nine credits of approved continuing education during the valid three years of certification.

(D) Employees of Federal Agencies. Federal Government Employees wishing to be certified in Utah shall be required to qualify as non-commercial applicators by passing the appropriate examinations, unless such requirement is waived upon presentation of adequate evidence of certification in the appropriate categories from another state with comparable certification requirements. In the event a federal agency develops an applicator certification plan which meets the Utah certification standards, employees of that agency who become certified under that plan may qualify for certification in the State of Utah.

(E) Certification of Out-of-State Applicants.

When a pesticide applicator is certified under an approved state plan of another state and desires to apply pesticides in Utah, he/she shall make application to the department and shall include, along with the proper fee and any other details required by the Act or these rules, a true copy of his credentials as proof of certification in the person's state of residence and a letter from that state's department of agriculture stating that he/she has not been convicted of a violation of any pesticide law and is currently licensed as a pesticide applicator in that state. The department may upon review of the credentials, issue a Utah certification to the applicator in accordance with the use situations for which the applicator is certified in another state without requiring determination of competency; provided that the state having certified the applicator will similarly certify holders of Utah licenses or certificates and has entered into a reciprocal agreement with the State of Utah. Out-of-state pesticide applicators who operate in Utah will be subject to all Utah laws and rules.

R68-7-9. Dealer Licensing.

(A) In order to facilitate rules of the distribution and sale of restricted-use pesticides, it is necessary to license dealers who dispense such materials.

(1) License Required.

It shall be unlawful for any person to act in the capacity of a restricted-use pesticide dealer, or advertise as, or presume to act as such a dealer at any time without first having obtained an annual license from the department. A license shall be required for each location or outlet located within this state from which such pesticides are distributed; provided, that any manufacturer, registrant or distributor who has no pesticide dealer outlet licensed within this state and who distributes a restricted-use pesticide directly into this state shall obtain a pesticide dealer's license for his principal out-of-state location or outlet; provided further, that any manufacturer, registrant or distributor who sells only through or to a pesticide dealer is not required to obtain a pesticide dealer's license.

(2) License Issuance. Application for a pesticide dealer's license shall be on a form prescribed by the department and shall be accompanied by a license fee determined by the department pursuant to subsection 4-2-2(2). If the department finds the applicant qualified to sell or distribute restricted-use pesticides and the applicant has paid the prescribed license fee, the department shall issue a restricted-use pesticides dealer's license. Pesticide dealers may voluntarily pay a triennial license fee in lieu of the annual license fee. This license shall expire December 31 of each year, unless it has been previously revoked or suspended by the commissioner for causes which may include any of the unlawful acts included in R68-7-11.

(3) License Renewal. License-renewal fees are payable annually before January 1. Pesticide dealers may voluntarily pay a triennial license fee in lieu of the annual license fee. If the renewal of a pesticide dealer's license is not received prior to January 1 of any one year, an additional fee determined by the department pursuant to Subsection 4-2-2(2), shall be assessed and added to the original license fee and shall be paid by the applicant before the license renewal shall be issued.

(4) Records Maintained. Each dealer outlet licensed to sell restricted-use pesticides shall be required by the department to maintain a restricted-use pesticide sales register by entering all restricted-use pesticide sales into the register at the time of sale. A register form, provided by the department, shall include the following information:

- (a) The name and address of the purchaser.
- (b) Brand name of restricted-use pesticide purchased.
- (c) EPA registration number of restricted-use pesticide purchased.
- (d) Month, day and year of purchase.
- (e) Quantity purchased.

(f) Signature and license number of the purchaser, pesticide category, expiration date of license, or signature of purchaser's agent (uncertified person) if letter of authorization is on file. Letter of authorization must include names of agents, signature and license number of purchaser.

Such records shall be kept for a period of two years from the date of restricted-use pesticide sale and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee, upon request, shall be furnished a copy of such records by the restricted-use pesticide dealer.

(5) Exemption. Provisions of this section shall not apply to: (a) a licensed pesticide applicator who sells restricted-use pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through equipment used for such pesticide application (b) Federal, state, county, or municipal agency which provide restricted-use pesticides only for its own programs shall be exempt from the license fee but must meet all other requirements of a pesticide dealer.

(6) Responsible for Acts of Employees. Each pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of restricted-use pesticides and all claims and recommendations for use of restricted-use pesticides. A dealer's license shall be subject to denial, suspension or revocation for any violation of the Pesticide Control Act or rules promulgated thereunder, whether committed by the dealer or by the dealer's officer, agent, or employee.

R68-7-10. Transportation, Storage and Disposal of Pesticides and Pesticide Containers.

No person shall transport, store, or dispose of any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or to pollute any waterway in a manner harmful to any wildlife therein.

R68-7-11. Unlawful Acts.

Any person who has committed any of the following acts is in violation of the Utah Pesticide Control Act or rules promulgated thereunder and is subject to penalties provided for in Sections 4-2-2 through 4-2-15:

(1) Made false or fraudulent claims through any media misrepresenting the effect of pesticides or methods to be utilized;

(2) Applied known ineffective or improper pesticides;

(3) Operated in a faulty, careless or negligent manner;

(4) Neglected or, after notice, refused to comply with the provisions of the Act, these rules or of any lawful order of the department;

(5) Refused or neglected to keep and maintain records required by these rules, or to make reports when and as required;

- (6) Made false or fraudulent records, invoices or reports;
- (7) Engaged in the business of applying a pesticide for hire or compensation on the lands of another without having a valid commercial applicator's license;
- (8) Used, or supervised the use of, a pesticide which is restricted to use by "certified applicators" without having qualified as a certified applicator;
- (9) Used fraud or misrepresentation in making application for, or renewal of, a registration, license, permit or certification;
- (10) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;
- (11) Used or caused to be used any pesticide in a manner inconsistent with its labeling or rules of the department if those rules further restrict the uses provided on the labeling;
- (12) Aided or abetted a licensed or an unlicensed person to evade the provisions of the Act; conspired with such a licensed or an unlicensed person to evade the provisions of the Act; or allowed one's license or permit to be used by another person;
- (13) Impersonated any federal, state, county, or other government official;
- (14) Distributed any pesticide labeled for restricted use to any person unless such person or his agent has a valid license, or permit to use, supervise the use, or distribute restricted-use pesticide;
- (15) Applied pesticides onto any land without the consent of the owner or person in possession thereof; except, for governmental agencies which must abate a public health problem.
- (16) For an applicator to apply a termiticide at less than label rate.
- (17) For an employer of a commercial or non-commercial applicator to allow an employee to apply pesticide before that individual has successfully completed the prescribed pesticide certification procedures.
- (18) For a pesticide applicator not to have his/her current license in his/her immediate possession at all times when making a pesticide application.
- (19) To allow an application of pesticide to run off, or drift from the target area to cause plant, animal, human or property damage.
- (20) Refused or neglected to register a pesticide applicator business with the Utah Department of Agriculture and Food.
- (21) To handle or apply any registered pesticide for which the person does not have an appropriate, complete, or legible label at hand.

KEY: inspections

Date of Enactment or Last Substantive Amendment: January 7, 2008

Notice of Continuation: March 16, 2006

Authorizing, and Implemented or Interpreted Law: 4-14-6